

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Truth-in-Billing

and

Billing Format

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CC Docket No. 98-170

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF
THE COALITION TO ENSURE RESPONSIBLE BILLING

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SUMMARY

The Coalition to Ensure Responsible Billing ("Coalition") was formed with the express purpose of ensuring the integrity, and increasing the clarity, of the local telephone bill. Billing clearinghouses consolidate charges from telecommunications providers and contract with local phone companies for those charges to appear on the local bill. This billing arrangement results in a single convenient bill for consumers, and it enhances competition for telecommunications services ranging from long distance to voice mail to paging. The Coalition urges the Commission to recognize that this pro-competitive practice may be threatened if LECs are permitted to give preferential treatment to LEC-provided ancillary services on the bill, while imposing discriminatory conditions on similar competitive services. The Commission has authority to protect against such an outcome and should exercise it.

The Coalition further urges the Commission to recognize the effectiveness of existing private efforts to meet truth-in-billing goals and protect consumers, including the Coalition's strict Anti-cramming Consumer Protection Standards of Practice. With regard to the organization and content of the bill, the Coalition suggests the following: (1) Local service should be billed on one page with other charges on succeeding pages, grouped by billing clearinghouse where one is used; (2) a status change page may not be technically or practically feasible; (3) the names of both the clearinghouse and the service provider should be listed on the bill to the extent technically feasible; (4) the toll-free number listed alongside a charge should be that of the billing clearinghouse, where applicable, because the clearinghouse is responsible for customer service functions; (5) many LECs are not technically able to include the street address and toll-free number of a service provider on the bill; and (6) the bill should be clarified with regard to deniable charges and those that result from federal regulatory action.

Finally, the Commission should recognize that as it imposes new requirements on LECs, such as those proposed in this rulemaking, it reduces the incentives for LECs to provide third party billing. As the Commission resolves issues central to the clarity and integrity of telephone bills, the Coalition urges the Commission to balance feasibility, cost, and the effect on competition.

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**COMMENTS OF
THE COALITION TO ENSURE RESPONSIBLE BILLING**

The Coalition to Ensure Responsible Billing ("Coalition") respectfully submits the following comments in response to the Notice of Proposed Rulemaking in this proceeding concerning truth-in-billing and billing format.¹

The provision of clear, understandable, legitimate telephone bills is critical to consumers and to competition. Three billing clearinghouses -- Billing Concepts, OAN Services, and Federal TransTel -- founded the Coalition to Ensure Responsible Billing with the express purpose of ensuring the integrity, and increasing the clarity, of the local telephone bill. The Coalition members process more than 90 percent of all billing submitted to local telephone companies by third parties. Billing clearinghouses, like those that comprise the Coalition, consolidate charges from many competing telecommunications providers and contract with local phone companies for those charges to appear on consumers' monthly bills. Consumers benefit because they prefer the simplicity and accounting convenience of paying a single bill for many or

¹ In the Matter of Truth-in-Billing and Billing Format, Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 98-232, released Sept. 17, 1998 ("NPRM").

all of their telecommunications services. At the same time, these billing arrangements stimulate competition by allowing small companies that provide long distance, voice mail, cellular, paging and other services to reach their customers through the local telephone bill. Thus, billing clearinghouses and the service providers for whom they bill act in the public interest by enhancing competition and increasing consumer choice.

I. Introduction

At the outset, the Coalition urges the Commission to recognize that the billing arrangements whereby competitive services appear on the local telephone bill may be threatened if incumbent local exchange carriers ("LECs") are permitted to give preferential treatment to their own ancillary services on the bill, while imposing discriminatory conditions on similar competitive services. As LECs begin to enter and compete in new markets, ensuring non-discriminatory access to the bill is necessary to restrain their ability to keep competitors' charges off the monthly bill thus using their control over the local bill as a way to leverage their competitive position into other markets. The Commission has authority to protect against such an outcome and should exercise it.

The Coalition further urges the Commission to recognize the significant private efforts already underway to improve the telephone bill. The Coalition has developed strict Anti-cramming Consumer Protection Standards of Practice ("Standards") to promote responsible practices within the industry and to protect consumers from cramming (attached). These efforts will go a long way toward reducing consumer confusion and evasive billing practices.

With regard to the organization and content of the bill, the Coalition suggests the following: (1) Local service should be billed on one page (likely the first) and other charges should be billed on succeeding pages, grouped by billing clearinghouse where one is used; (2) a status change page may not be technically or practically feasible; (3) the names of both the clearinghouse and the service provider should be listed on the bill to the extent technically feasible; (4) the toll-free number listed alongside a charge should be that of the billing clearinghouse, where applicable, because the clearinghouse is responsible for customer service functions; (5) many LECs are not technically able to include the street address and toll-free number of a service provider on the bill; and (6) the bill should be clarified with regard to which charges are deniable and with regard to charges resulting from federal regulatory action.

Finally, the Commission should recognize that as it imposes new requirements on LECs, such as those proposed in this rulemaking, it reduces the incentives for LECs to provide third party billing. As the Commission resolves issues central to the clarity and integrity of telephone bills, the Coalition urges the Commission to balance feasibility, cost, and the effect on competition.

II. The Commission Should Impose a Non-Discrimination Requirement on Local Exchange Carriers in their Provision of Billing and Collection Services

Non-discriminatory treatment in the provision of billing and collection services is critical to competition because telecommunications service providers rely heavily on the local bill to facilitate their business. The Commission has suggested that alternatives other than incumbent

LEC billing and collection services are available for communication services.² However, it is the Coalition's experience that as a practical matter these alternatives are not feasible for billing and collection of telecommunications services. Utilizing credit card bills, for example, does not permit itemization of telecommunications services, such as separate charges for each call. Further, the credit card bill, unlike the telephone bill, is not ubiquitous. Americans use a variety of credit cards, and some have no credit card at all. Nor is direct billing by service providers always a viable option. Direct billing is usually economically infeasible for smaller competitive providers and those that need to bill only small and intermittent charges. Further, consumers clearly prefer to see all their telecommunications charges on a single bill. Thus, contracting for LEC billing and collection is the only realistic alternative for many telecommunications providers. Accordingly, LEC billing and collection services are essential to the ability of telecommunications providers to bring services to consumers. Discrimination by LECs could significantly impair competitive telecommunications providers.

As the industry moves to a more competitive model, certain risks to the use of LEC billing and collection services become apparent. Increasingly, LECs are competing in other markets such as voice mail, paging and cellular services. Most importantly, the regional Bell Operating Companies ("RBOCs") may be permitted to enter the long distance market if the Commission determines that they have complied with the market-opening provisions of Section 271 of the Telecommunications Act of 1996.³ The Coalition submits that LECs could

² In the Matter of Detariffing of Billing and Collection Services, 102 F.C.C.2d 1150, para. 37 (1986) (hereinafter "Detariffing Order").

³ 47 U.S.C. § 271.

discriminate in the provision of billing and collection services in order to hinder competition and promote their own services. Accordingly, LECs have both the incentive and the ability to discriminate in provision of billing and collection services to the detriment of providers of competing telecommunication services.

The Coalition is very concerned that LECs could use their provision of billing and collection services to harm their competitors. Specifically, LECs could jeopardize the competitive position of new market entrants by favoring their own services over those of competitors when enforcing conditions for appearing on the telephone bill.⁴ For example, under the guise of protecting consumers from cramming, a LEC could discontinue billing for a provider who was the subject of a certain number of consumer complaints. In a case where the LEC provided a similar service and received the same or even a greater number of complaints but did not remove its own offering from the local bill, that action would raise competitive concerns.

Despite this competitive threat, the Commission has not made adequately clear that it will entertain complaints alleging discrimination in the provision of billing and collection services.

⁴ While LECs have supported the principle of non-discriminatory treatment, they have not made that commitment concrete and enforceable. Larry Sarjeant, Vice President of legal and regulatory affairs for the United States Telephone Association, testified before Congress that the LEC anti-cramming guidelines "in several places, specify that the LECs should treat themselves . . . no differently than third-parties for whom they bill." Hearing on Protecting Consumers Against Cramming and Spamming Before the Subcommittee on Telecommunications, Trade and Consumer Protection of the House Commerce Committee (Sept. 28, 1998), Federal News Service transcript at 29. A review of the LEC guidelines, however, reveals a general statement that "[i]f a LEC chooses to implement a particular best practice, it is expected that such practice will be implemented in an objective, fair, and equitable manner." Anti-Cramming Best Practices Guidelines at 3. While encouraging, this rhetorical statement does not ensure non-discriminatory treatment for competitive service providers at the hands of LECs.

Mr. Sarjeant also recognized that the Commission may have jurisdiction to ensure non-discriminatory treatment. He noted: "I would expect the FCC to the extent that a carrier was discriminating in that regard would be interested in knowing about it and whether or not they would have jurisdiction under Title I or Title II, I'm sure they would have great interest and we . . . or our carrier would probably be in there talking with them." Sept. 28, 1998 Hearing on Protecting Consumers Against Cramming and Spamming, Federal News Service transcript at 29.

In this regard, the Coalition was encouraged to hear Common Carrier Bureau Chief Larry Strickling testify that there is a "process under the Telecom Act to adjudicate complaints brought against carriers for unreasonable activities on their part. So, if one of these competing providers felt that the denial of billing or the shut off of billing constituted an unfair practice, in that regard, they could bring a complaint case before us and we would adjudicate it at that time."⁵

In order to protect competition and consumer choice, the Commission should establish in this proceeding a clear non-discrimination requirement on provision of billing and collection services by incumbent LECs. As outlined below, the Commission possesses the authority to do so. The Commission should determine that it will be unlawful for LECs to unreasonably discriminate in the provision of billing and collection services and that it will entertain complaints to enforce this requirement. The Commission should additionally establish procedural rules for adjudication of such complaints. These steps will help assure that LECs are not able to use their status as the dominant provider of telecommunications billing and collection services to harm competitors or to thwart the provision of new services to consumers by unreasonably discriminating in the provision of billing and collection services.

III. The Commission has Jurisdiction to Promote Competition on the Telephone Bill

The Commission has requested comment on the extent to which it has jurisdiction to adopt its own rulemaking proposals, or any additional proposals raised on the record of this

⁵ Sept. 28, 1998 Hearing on Protecting Consumers Against Cramming and Spamming, Federal News Service transcript at 29.

proceeding.⁶ The Coalition suggests that, in addition to any authority governing the proposals contained in the instant rulemaking, the Commission has ancillary jurisdiction under Title I of the Telecommunications Act of 1934 to promote the widespread availability of communications and to enhance competition through the local telephone bill. While this rulemaking focuses on protecting consumers by improving the clarity of billing formats, the Commission's overarching goal must always remain the proliferation of competitive choices for consumers. The Commission need not guarantee third parties an absolute right to use the local bill in order to apply a non-discrimination principle. The Commission can guard against discriminatory practices by, for example, ensuring that anti-cramming protections, such as those contained in the LECs' best practices guidelines, be applied equally to LECs and third party billed services.

A. Title I Ancillary Jurisdiction

The Commission can prevent discrimination, protect consumer choice, and promote competition through its Title I ancillary jurisdiction, despite its finding in the Report and Order on Detariffing of Billing and Collection Services that it cannot exercise Title II direct jurisdiction over third party billing.⁷ In that order, the Commission recognized that it possesses the power to "regulate exchange carrier provision of billing and collection service" under Title I,⁸ where it chooses to exercise that power. First, the Commission reasoned that this power stems from its "jurisdiction over 'all persons engaged within the United States in such [interstate or foreign]

⁶ NPRM at para. 13.

⁷ Detariffing order at para. 35.

⁸ *Id.* at para. 36.

communication.""⁹ Second, the Telecommunications Act of 1934, as amended, defines "communication by wire", which is subject to the Commission's jurisdiction, to include "services . . . incidental to such transmission."¹⁰ Finally, the Commission is empowered by Section 4(i) of the Telecommunications Act of 1934 to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." ¹¹

1. Statutory Purposes

As an initial matter, the exercise of ancillary jurisdiction requires that such regulation would "be directed at protecting or promoting a statutory purpose."¹² Two critical statutory objectives would be promoted by invoking Title I to ensure non-discrimination with regard to access to the local telephone bill: (1) the Commission's general mission to perpetuate widespread communications; and (2) its mandate to promote competition in telecommunications services.

⁹ *Id.* (quoting 47 U.S.C. § 152(a)).

¹⁰ *Id.* (quoting 47 U.S.C. § 153(52)).

¹¹ *Id.* (quoting 47 U.S.C. § 154(i)).

¹² *Id.* at para. 37.

a. Proliferation of Communication

The Commission has a duty to promote widespread communication to all Americans.¹³ Billing and collection of third party services through the local telephone bill furthers this objective by making it more economical for competitive telecommunications providers to bill their services, thus creating widespread communications opportunities for American consumers. To the extent that the Commission bars discrimination related to third party charges on the local bill, that action will ensure the proliferation of existing and new telecommunication services.

b. Promotion of Competition

The Commission may also invoke its ancillary jurisdiction in order to promote the objectives of the Telecommunications Act of 1996, which include providing "a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."¹⁴ In the instant rulemaking, the Commission has recognized the importance of consumers "reap[ing] the benefits of a competitive market."¹⁵ Preventing LECs from discriminating against competitive services on the local bill is critical to fostering competition in the telecommunications marketplace,

¹³ See 47 U.S.C. § 151 (the purpose of the Telecommunications Act of 1934 is to make available "to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.").

¹⁴ H.R. Conf. Rep. No. 104-458, at 1 (1996) (Conference Report on the Telecommunications Act of 1996).

¹⁵ NPRM at para. 3.

especially for small competitive service providers. Use of the local telephone bill – on a non-discriminatory basis – reduces transaction costs for smaller service providers and thus enables them to enter the market and compete vigorously with their larger rivals.

2. The Commission Has Recognized Its Authority to Establish Conditions on Third Party Billing

In the NPRM, the Commission determined that a LEC telephone bill is an integral part of the relationship between a LEC and the customer and that, therefore, regulation of information on bills falls within the Commission's authority under Section 201(b).¹⁶ The Coalition submits that an incumbent LEC's provision of billing and collection services to third parties also affects the information that will appear on bills, as well as the LEC's relationship with the customer. Accordingly, the carrier's practices governing to whom it provides billing and collection services -- and the guidelines it employs in provision of those services -- will affect what appears on bills. Thus, if a LEC discriminates in provision of billing and collection services, its bill will not contain billing information from entities for whom it refuses to bill. Where billing and collection is provided, the content of the billing information may be affected by the LEC's guidelines. Thus, LEC practices governing billing and collection services will fundamentally affect what appears on the bill. Accordingly, the Coalition submits that the Commission has authority to impose a non-discrimination requirement under the Act pursuant to the reasoning of the NPRM issued in this proceeding. As discussed, the Coalition urges the

¹⁶ *Id.* at para. 13.

Commission to establish a non-discrimination requirement in order to protect consumers and to ensure that LECs are not able to harm competitors.

IV. The Commission Should Recognize Existing Efforts To Improve The Telephone Bill

Significant efforts are already underway to improve the clarity and preserve the integrity of the local telephone bill. Given time to work, these efforts will improve consumer satisfaction and reduce confusion about charges that appear on the bill. The Coalition supports the FCC's efforts to address billing issues, particularly its efforts to create "best practices" guidelines in conjunction with the LECs and other concerned parties, including the Coalition. Through this effort the Commission has recognized the effectiveness of industry solutions to cramming.

Inspired by the Commission's process, the Coalition promulgated its own Standards of Practice for billing clearinghouses. These Standards outline corrective procedures that clearinghouses will implement to help end cramming. Billing clearinghouses must: (1) pre-screen providers and services; (2) monitor providers and programs; (3) require service providers to use specific methods to verify orders; (4) offer consumer-friendly bills; (5) supply helpful information to consumers who have complaints; and (6) make a broad range of data about cramming available.

The Standards require clearinghouses to take decisive action to make the bill more clear and reliable. Further, the Standards are binding upon those who sign them. The Coalition was proud to present the Standards on October 1, 1998, to the Commission, the Federal Trade Commission, each state attorney general and all state public utility and service commissions.

The Standards were signed by every billing clearinghouse that the Coalition identified as providing third party billing and collection services.

The Coalition suggests that the Commission consider this effort as it reviews the "extent to which any carriers already have in place practices similar to, or that have the same effect as the proposals in the Notice."¹⁷ The Standards will achieve many of the same goals as the proposals in the Notice, particularly since they have been fully endorsed by the industry and are already being implemented. The Coalition would like to note, however, that there will be a lag time before it is possible to judge the success of the Standards. This lag time results from the amount of time it takes for a service to be received by, and billed to, the consumer. Further time may pass before the consumer poses an inquiry, and the inquiry is presented to the clearinghouse for corrective action. The same principle holds true for the LEC anti-cramming guidelines. As Mr. Strickling pointed out, it is "too soon . . . to say we've seen significant results, but we do expect the level of complaints to drop substantially."¹⁸

While the Coalition supports the Commission's efforts to address problems associated with the telephone bill through the instant NPRM, it also urges the Commission to allow the Coalition Standards and the LEC best practices guidelines to run their course before implementing narrow prescriptive remedies. The results of these voluntary efforts, given the time to work, will be extremely helpful not only in solving billing problems, but also in highlighting the problems that require federal intervention to solve.

¹⁷ *Id.* at para. 11.

¹⁸ Sept. 28, 1998 Hearing on Protecting Consumers Against Cramming and Spamming, Federal News Service transcript at 10.

V. Organization and Content of Telephone Bills

As an initial matter, the Coalition suggests that the Commission refrain from prescribing in detail exactly how the local telephone bill should be formatted and what information must be included therein. Rather, the Commission should outline broad principles that LECs should follow within the confines of their own technical capabilities, which vary greatly from LEC to LEC. Some LECs possess advanced technical systems that allow great flexibility in formatting and information content, while others, especially small carriers, are not capable of performing certain technical functions. To the extent that the Commission prescribes onerous rules with which LECs must comply for third party charges, LECs will be encouraged to discriminate in favor of their own services and discouraged from offering third party billing. Competition will suffer.

A. Organization of the Bill

It is critical for the bill to be organized in a way that consumers can easily read and understand it. Confusion imposes costs not only on consumers, but also on LECs, billing clearinghouses, and regulators who all must respond to inquiries and complaints.

1. Bill Format

As to the most effective format of bills, the Coalition suggests the following. Charges for local service should be listed on the first page. This page can include charges for other LEC-provided services, such as voice mail. Charges for all third-party services, including long distance, should be listed on the subsequent pages. If a billing clearinghouse has presented

those charges to the LEC, the clearinghouse's name will appear on the same page as the charges. Charges should be grouped together by the clearinghouse that presented the charge, thus identifying to the consumer that the billing clearinghouse is the point of contact for all calls in its category. (As discussed below, the billing clearinghouse's toll-free number currently is listed near charges for which it is responsible, and similarly could continue to be listed with its category of charges.)

The Coalition discourages the Commission from organizing charges by individual service provider, as there are many small providers that often provide just one service. Thus, organizing by provider could create a series of one-line sections. These charges, which will not appear to be categorized in any way, will be confusing to the consumer. The billing clearinghouse often has a contractual relationship with the service provider to administer customer service functions (see below), so consumers who have inquiries will, in any case, direct their questions and complaints to the clearinghouse. Further, some small LECs are not technically capable of categorizing by service provider. Due to space limitations, these carriers list only the clearinghouse and a text phrase, along with the clearinghouse's toll-free customer service number.¹⁹ Thus, it makes sense to group third party billed charges by clearinghouse, where a clearinghouse is used.

¹⁹ Note that some of the smallest LECs lack the capability to list the billing clearinghouse's toll-free number and thus handle consumer inquiries themselves.

2. Application of TDDRA

The Commission has requested comment on whether segregating charges would serve a similar purpose to that of the Telephone Disclosure and Dispute Resolution Act ("TDDRA").²⁰ Among other things, TDDRA requires carriers to display charges for pay-per-call services in a part of the bill that is identified as not being related to local and long distance telephone charges. The model outlined above would serve the same purpose. Charges for local service will be evident on the first page, and other services will be clearly separated and identified.

3. Status Change Page

With regard to the Commission's proposal that bills should include a separate page or section highlighting changes in service,²¹ this requirement may not be feasible. First, a subscriber may change carriers more than once in a month, creating a technical problem for the LEC. The LEC has a limited amount of space and flexibility on the bill and may not be able to list on one page the various providers used by the consumer. Second, an obstacle would be created with regard to billing for the occasional use of alternate providers. For example, a person who travels often may place a large number of collect calls through various long-distance providers. These calls might each appear to correlate with a new long distance provider on the bill. Similarly, a consumer may elect to use a "10-10XXX" code to circumvent his or her regular

²⁰ NPRM at para. 17 (citing 47 CFR 64.1510(a)(2)(ii)).

²¹ NPRM at para. 19.

presubscribed long distance carrier in order to take advantage of an advertised discount. Again, these calls might be represented on the bill as changes of the long distance provider. Requiring an accounting of these calls on both the status change page and on the page where these charges appear will create unnecessary burdens for the LECs. Further, the appearance of this litany of charges in two places on the bill will increase – not decrease – consumer confusion. Thus, mandating a status change page would increase costs without increasing clarity. It would also discourage LECs from providing third party billing and would thwart competition in the market for casual calling and other services.

4. Other Efforts to Increase Clarity of the Bill

The Coalition's Standards and the LEC guidelines both require clear descriptions of services that are billed. Enhancing the clarity of descriptions will enable consumers to recognize unfamiliar charges and to correlate those charges with services used. Thus, making changes more clear and explicit will serve the same purpose as rearranging the bill.

B. Content of the Bill: Names and Numbers of Billing Clearinghouses and Service Providers

The Coalition fully supports the Commission's proposal that services and providers should clearly be identified on telephone bills so that consumers can recognize exactly for what services they are being billed, and by whom.²² To a large extent, however, many of the Commission's proposals mirror existing industry practices and thus are already in place.

²² *Id.* at para. 23.

1. Names of Billing Clearinghouse and Service Provider

As to whether the names of both billing clearinghouses and providers should be on the bill,²³ this practice is already standard in the industry, with a few exceptions; some small LECs lack the technical capability to include both names on the bill and include only the billing clearinghouse's name. Where only one name can be included, it makes sense to use the billing clearinghouse because the clearinghouse is responsible for responding to customer service inquiries.²⁴

Pursuant to standard industry practices, charges billed through clearinghouses are labeled by the name of the clearinghouse, the name of the service provider, and the clearinghouse's toll-free customer service number. For example, a consumer may purchase Internet access service from a provider who uses a billing clearinghouse to bill that consumer. The billing clearinghouse's logo will appear at the top of the page. The first line of the charge will read, for example: "Billed on behalf of X Internet Service Provider." The next line will read: "Internet Access \$XX.00." Thus, the consumer will be aware that he or she is being billed by the billing clearinghouse for Internet access from his or her service provider. Further, the billing clearinghouse's toll-free number clearly displayed alongside the charge will notify the consumer whom to call with an inquiry.

²³ *Id.*

²⁴ Note that most LECs offer consumer inquiry service as an option to billing and collection customers, including clearinghouses, but this option is rarely used.

2. Toll-Free Customer Service Numbers

Billing clearinghouses most often are the appropriate entity to answer customer inquiries for their service providers. The inclusion of a toll-free billing clearinghouse customer service number is already standard industry practice and is required by the Standards.²⁵ Billing clearinghouses are the appropriate entity to be listed on the bill because they are best situated to provide satisfaction to the consumer. The billing clearinghouse is a party to the contract with the LEC, so the clearinghouse has an interest in satisfying the consumer in order to conform to the terms of the contract. Further, many small providers lack the resources to set up consumer inquiry departments, so they contract with a billing clearinghouse for this service. This arrangement results in increased staffing of telephones to answer inquiries, quicker pick-up time, and knowledge on the part of the billing clearinghouse as to which providers are generating complaints. In short, where a small service provider has enlisted the help of a clearinghouse to respond to inquiries, consumer calls get answered faster, and consumers are more satisfied. Finally, billing clearinghouses have a greater incentive than service providers to offer compensation to inquiring subscribers because they lack the same financial interest as the service provider has to insist that charges be paid.

3. Technical Limitations on Text Phrases, Telephone Numbers and Addresses

The Coalition encourages the Commission to recognize that technical limitations may constrain a LEC's ability to perform certain billing functions. For example, some LECs are

²⁵ Note that some of the smallest LECs lack the capability to list the billing clearinghouse's toll-free number and thus handle consumer inquiries themselves.

capable of printing only 12 characters (letters of the alphabet) in a description or "text phrase," while some LECs can print up to 32 characters or 2 lines of text. For many LECs, especially small ones, it would be prohibitively burdensome to require replacement of billing facilities with new equipment capable of printing the number of characters required by a Commission rule.

This technical limitation can prevent inclusion of the service provider's business address and toll-free number on the bill. Provision of the address on the bill is not critical, in any case, because consumers generally prefer to call a toll-free number rather than to write to a street address. Further, in cases where a consumer requests a street address, the Standards make clear that the consumer is entitled to that information. As to inclusion of the service provider's toll-free number, as discussed above the billing clearinghouse is the appropriate entity to field complaints and to provide consumer satisfaction. Thus, where a clearinghouse is used, only the clearinghouse's number need appear on the bill.

4. Application of TDDRA

The Commission has requested comment on whether it should adopt requirements similar to those contained in TDDRA to govern what kinds of information about a charge must appear on the bill.²⁶ The Standards, the LEC guidelines, and current billing practices already provide that the bill must include a clear description of the service for which the consumer is being charged and a toll-free number the consumer can call if there is a question. Bills also

²⁶ *Id.* at para. 22.

include the amount of the charge. Thus, information already included in the bill is sufficiently similar to that required under TDDRA to achieve the same result.

5. Separation of Deniable and Non-deniable Charges

Separating deniable from non-deniable charges is an effective way to reduce the likelihood that consumers will pay erroneous or wrongful charges under a perceived threat of losing their telephone service. Most states already require this type of notification.²⁷ To the extent the Commission wishes to create uniformity throughout the country, however, it may wish to impose a national requirement. That way, consumers moving from one locality to another will consistently recognize these charges.

6. Descriptions of Charges Resulting from Federal Regulatory Action

As it attempts to forge broad principles regarding organization of the bill, the Commission should also attempt to clarify charges resulting from federal regulatory action. Universal service and access charges passed through to consumers have created an enormous amount of uncertainty and confusion about the bill. Often these charges are mistaken for services the consumer did not order and thus are categorized as "cramming." Last January, when these charges began to appear as line items on the bill, clearinghouses were inundated with inquiries to the point where they were forced to hire and train more customer service operators.

²⁷ See Prepared Statement of Lawrence E. Strickling, Deputy Chief, Common Carrier Bureau, Federal Communications Commission, submitted to the Senate Committee on Governmental Affairs, Permanent Subcommittee on Investigations, Hearing on Telephone Cramming (July 23, 1998), at 4-5.

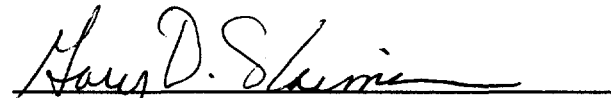
Even Chairman Tauzin of the U.S. House of Representatives Telecommunications Subcommittee recognized the problem, noting that when he attempted to assist his mother with some unfamiliar charges on her bill, those charges turned out to be universal service charges.²⁸

One way to clear up this confusion is to create "safe harbor" standard language describing the purpose of the charge. By using consistent language, much confusion can be eliminated, particularly for consumers who move from one jurisdiction to another and continually receive new descriptions of the charges whenever they receive a new bill. Clarifying the nature of federal regulatory charges will reduce consumer confusion, thus resulting in fewer complaints to LECs, billing clearinghouses and regulatory agencies.

VI. Conclusion

The Coalition urges the Commission to take the actions suggested herein to promote competition in telecommunications and to protect consumers.

Respectfully submitted,



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November 13, 1998

²⁸ Sept. 28, 1998 Hearing on Protecting Consumers Against Cramming and Spamming, Federal News Service transcript at 10.

***ANTI-CRAMMING CONSUMER PROTECTION STANDARDS OF PRACTICE
OF THE COALITION TO ENSURE RESPONSIBLE BILLING ("CERB")***

Cramming is the addition of charges to a telephone bill for programs, products or services the consumer did not knowingly authorize.

In order to protect consumers from unauthorized, deceptive or ambiguous charges on their telephone bills, signatories hereto adopt and agree to be bound by the following Anti-Cramming Consumer Protection Standards of Practice.

● **PRE-SCREENING OF PROVIDERS AND SERVICES**

Signatories commit to pre-screening all prospective service providers and the programs, products and services they offer.

■ **SCREENING OF PROVIDERS**

Signatories will require as a precondition for any business relationships the following information:

- Service provider company name and address.
- Names of officers and principals of the company.
- Proof of corporate or partnership status.
- Copies of certifications as required.
- Foreign corporation filings as required.
- Any information regarding whether the company, its affiliates and/or its officers or principals have been subject to prior conviction for fraud or have had billing services terminated.
- That any tariffs be made available on request.
- The names of any telemarketing companies to be used by the service provider.
- The names of any third party verification companies to be used by the service provider .

■ **SCREENING OF PROGRAMS, PRODUCTS AND SERVICES**

Signatories will require the following information:

- Marketing materials.
- Advertisements (print or other media).
- Applicable fulfillment package (which must include cancellation information if not included elsewhere and a toll free customer service telephone number).
- Scripts for both sales and validation.
- Honest, clear, and understandable text phrase for telephone bill.

Signatories will not knowingly provide billing for services employing the following practices:

- Box, sweepstakes, or contest - type entry forms.
- Negative option sales offers.
- 800 pay per call.
- Collect callback.
- Phantom billing (charging for calls never made or services never provided).
- Such other programs, products or services Signatories determine to be deceptive or anti-consumer.

Each Signatory will maintain an internal standards committee to review the information collected for both providers and programs. Members of these committees will have no vested sales interest in the acceptance of a service, product or program.

● **COMPLIANCE MONITORING**

In order to better police the business practices of its service providers and to assure the efficiency of its screening procedures Signatories commit to engage in active monitoring of providers and programs. Signatories will:

- Monitor consumer inquiries.
- Monitor consumer complaints to government agencies.
- Monitor escalated complaints to the local exchange carrier.
- Maintain up-to-date records regarding complaints and inquiries.
- Adopt action plans to respond to complaints and inquiries.
- Notify service providers of complaints or inquiries.
- Coordinate investigations with service providers.
- Each Signatory shall take such disciplinary action as each determines is appropriate under the circumstances

● **MANDATORY AUTHORIZATION**

It is critical that consumers can depend upon their authorization for the service, product or program for which they will be billed. Signatories will require service providers to employ one of the following forms of authorization:

- Independent Third Party Verification, or
- Written Letter of Authorization or Sales Order, or
- Voice Recording of Telephone Sales Authorization.

A valid authorization must include:

- The date.
- The name, address and telephone number of the consumer.
- Assurance that the consumer is qualified to authorize billing.
- A description of the product or service.
- A description of the applicable charges.
- An explicit consumer acknowledgment that the charges for the product or service will appear on the telephone bill.
- The acceptance by the consumer of the offer.

- **CONSUMER-FRIENDLY BILLING PRACTICES**

Central to a consumer's right to ensure that they have not been crammed is the ability to understand and read the telephone bill. Signatories agree that informed consumers can better protect themselves from unauthorized products or services. Signatories will support providing consumers a bill that can be easily understood.

Consumer bills should include:

- A clear identification of the billing entity.
- A clear identification of the service provider.
- A clear description of products or services.
- A clear identification of the charges.
- The toll free telephone number that subscribers may call to make inquiries concerning the billing.

- **CONSUMER SATISFACTION**

Consumers must be able to easily and quickly discuss problems. Signatories are committed to monitoring consumer satisfaction particularly with regard to any disputes or inquiries that may arise. Signatories will provide quick and thorough responses. Signatories shall provide on request:

- The name, address, phone number and fax number of the service provider.
- The nature of any charge.
- The method of authorization.
- Information as to how a consumer may cancel a service or product.

In addition, in order to facilitate resolution of disputes Signatories will:

- Provide a toll free customer service number.
- Provide dedicated staff to respond to consumer inquiries.
- Provide a full and timely investigation of any dispute.
- Initiate a credit or respond to the consumer within 30 days of the consumer's dispute.
- Not rebill on a local exchange carrier telephone bill charges previously credited.

● **DISCLOSURE**

Signatories will share with each other and, upon request, with federal and state enforcement agencies:

- Identifying information with respect to terminated service providers and programs.
- A description of specific practices relating to cramming that the Signatories have encountered, and the steps being taken by the Signatories to correct them.
- Aggregate data with regard to complaints filed with federal and state government authorities received by Signatories.

On October 1, 1998, a copy of these Standards of Practice and a list of all Signatories were sent to the Federal Communications Commission, the Federal Trade Commission and all state Public Utility and Service Commissions and each state Attorney General.

Signatories:

Federal TransTel	OAN Services	Billing Concepts
HBS Billing Services	ILD Teleservices	Integretel
National Billing Exchange	Olympic Telecommunications	USP&C
Telephone Billing Services		

The Coalition to Ensure Responsible Billing was formed by the United States' leading billing clearinghouses in an effort to combat consumer fraud on the local telephone bill.

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CERTIFICATE OF SERVICE

I, Valerie Steen, hereby certify that I have on this 13th day of November, 1998, served copies of the foregoing comments of the Coalition to Ensure Responsible Billing on Notice of Proposed Rulemaking on the following via hand delivery:

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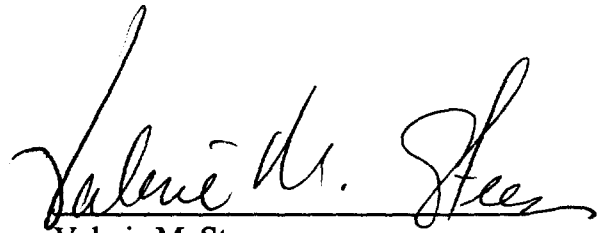
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